

The Honorable John H. Chun
The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., a Delaware
corporation; and AMAZON.COM SERVICES
LLC, a Delaware limited liability company,

Plaintiffs,

v.

YAN LI, an individual; and XIWEI CHEN, an
individual; and DOES 1-10,

Defendants.

No. 2:23-cv-00486-JHC-MJP

**DECLARATION OF SCOTT
COMMERSON IN SUPPORT OF
PLAINTIFFS' *EX PARTE* MOTION
FOR ALTERNATIVE SERVICE**

I, Scott Commerson, declare and state as follows:

1. I am a Partner at the law firm Davis Wright Tremaine LLP, which represents Plaintiffs Amazon.com, Inc., and Amazon.com Services LLC (together, "Amazon") (collectively, "Plaintiffs") in the above-entitled litigation. I am over 18 years of age. The statements made below are true to the best of my knowledge and belief. I make them in support of Plaintiffs' *Ex Parte* Motion for Alternative Service.

2. Plaintiffs have conducted a substantial investigation into Defendants Yan Li ("Defendant Li") and Xiwei Chen ("Defendant Chen") (collectively, "Defendants"). From August 17, 2021 through September 14, 2021, Defendants submitted fraudulent copyright

takedown notices through their Amazon Brand Registry account¹ to target and remove content from product listings in the Amazon.com store (“Amazon Store”). Plaintiffs also conducted a substantial investigation into the Cuncq Ylo selling account (the “Cuncq Ylo Selling Account”) that Defendants linked to when they created the Vivcic Brand Registry Account. These efforts include: (1) working with investigators who researched information Defendants provided to Amazon when registering the Cuncq Ylo Selling Account; and (2) serving third-party discovery pursuant to an order from this Court. Plaintiffs’ investigation and discovery efforts revealed that Defendants are likely located in China because all of the IP addresses used to access the Cuncq Ylo Selling Account are located in China.

3. After the Court granted Plaintiffs’ Motion for Expedited Discovery, Plaintiffs served subpoenas on several service providers linked to the Cuncq Ylo Selling Account, including the payment service providers, PingPong Global Solutions, Inc. (“PingPong”) and Payoneer, Inc. (“Payoneer”). PingPong and Payoneer hosted virtual bank accounts that were used by the operators of the Cuncq Ylo Selling Account to receive and transfer proceeds from their sale of products in the Amazon Store. PingPong’s production disclosed that Defendant Li had registered the PingPong account that was linked to the Cuncq Ylo Selling Account. PingPong further disclosed that Defendant Li registered the email address 272708976@qq.com in connection with the PingPong account. Payoneer’s production disclosed that Defendant Chen had registered the Payoneer account that was also linked to the Cuncq Ylo Selling Account. Payoneer further disclosed that Defendant Chen registered the email address 1873154782@qq.com in connection with the Payoneer account. Based on Defendants’ control over these financial accounts that were registered to receive disbursements from the Cuncq Ylo Selling Account, it is reasonable to infer that Defendants controlled the Cuncq Ylo Selling Account, as well as the Vivcic Brand Registry Account that was linked to it.

4. The information from PingPong and Payoneer also disclosed potential physical

¹ Specifically, the Amazon Brand Registry account bearing the account number 1410247, for which the European Union Intellectual Property Office trademark “Vivcic” (filing number 018292374, the “Vivcic Trademark”) was added on or about August 13, 2021 (“Vivcic Brand Registry Account”).

addresses for Defendants in China, which Plaintiffs provided to their investigators. However, Plaintiffs' investigators were not able to confirm Defendants were located at any of the addresses, or that the addresses were related to any fraudulent activity. As such, despite diligence efforts, Plaintiffs have not been able to identify any valid physical address for Defendants. The Payoneer production, however, showed that the vast majority of the IP addresses used to access the virtual bank account were located in China.

5. Plaintiffs believe that the emails that Defendants registered with Amazon and the payment service providers PingPong and Payoneer all remain active and that service through these email addresses is reasonably calculated to provide actual notice. On May 23, 2024, we directed that test emails be sent to Defendants via each of these email addresses. These test emails apprised Defendants of the lawsuit and contained courtesy copies of the Summonses, Amended Complaint, and Civil Cover Sheet. We did not receive any error notices, bounce back messages, or other indications that the emails failed to deliver. Specifically, we received no error notices, bounce back messages, or other indications that the test emails failed to deliver to the following email addresses controlled by Defendants: yolandayan123@outlook.com; 272708976@qq.com; and 1873154782@qq.com.

6. Subject to the Court's permission, Plaintiffs will serve Defendants using an online service for service of process, RPost (www.rpost.com) that provides proof of authorship, content, delivery, and receipt to the following email addresses controlled by Defendants:

- Defendant Yan Li: yolandayan123@outlook.com; and 272708976@qq.com
- Defendant Xiwei Chen: yolandayan123@outlook.com; and 1873154782@qq.com.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

1 EXECUTED this 28th day of May, 2024 at Los Angeles, California.

2 
3 _____
4 Scott Commerson